(3)

c.f. 1004

IN THE HIGH COURT OF JUDICATURE OF CHHATTISGARH AT BILASPUR

WRIT PETITION NO. 1344/2002.

P.R. No. 1346/02
Presented by Shri S. Verma
dated 05.10.02

PETITIONER

SMT. HARBHAJAN KAUR
W/o Shri Harbhajan Singh,
aged about 47 years,
R/o Govind Nagar, Raipur.

VERSUS

RESPONDENTS

1. STATE OF CHAHTTISGARH through Secretary, Environment and Urban Development Department, D.K. Bhawan Mantralaya, Raipur(Chhattisgarh)

2. The Municipal Corporation, Raipur, a body incorporated under Section-7 of the Chhattisgarh Municipal Corporation Act, 1956, having perpetual succession and common seal having its office at Malviya Road, Raipur.

3. Khadi Gramin Udyog through- Secretary, D.K. S. Bhawan Raipur (C.G.)

4. Raipur Development authority through its chief Executive Officer Raipur Development authority Near Bajrang Mandir G.E. Road Raipur

Amendment carried as per order dated 9/8/05 S. Verma 18/8/05

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION ON INDIAFOR ISSUANCE OF APPROPRIATE WRIT / ORDER / DIRECTION

(81)

HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION NO.1339/02
Smt. Lata Surana
Vs.
State of C.G. & Ors.

WRIT PETITION NO.1342/02
Smt. Roma Adhlakha
Vs.
State of C.G. & Ors.

WRIT PETITION NO.1343/02
Manish Kumar
Vs.
State of C.G. & Ors.

WRIT PETITION NO.1340/02
Smt. Chetna Surana
Vs.
State of C.G. & Ors.

WRIT PETITION NO.1341/02
Anil Adhlakha
Vs.
State of C.G. & Ors.

WRIT PETITION NO.1369/02

Shri Rajeev Sachdev & ano.
Vs.
State of C.G. & Ors.

WRIT PETITION NO.1344/02
Smt. Harbhajan Kaur
Vs.
State of C.G. & Ors.

WRIT PETITION NO.505/03
Smt. Anita Sindhwani
Vs.
State of C.G. & Ors.

WRIT PETITION NO.506/03
Rakesh Saraogi
Vs.
State of C.G. & Ors.

A N D

WRIT PETITION NO.507/03
Ajay Sindhwani
Vs.
State of C.G. & Ors

O R D E R

Post for: 15/2/2005

Sd/-
Acting Chief Justice

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HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION NO.1339/02
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Rakesh Saraogi
Vs.
State of C.G. & Ors.

A N D

WRIT PETITION NO.507/03
Ajay Sindhwani
Vs.
State of C.G. & Ors.

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ORDER

Per Fakhruddin, Ag. C.J.:

The above writ petitions have been heard analogously and are being disposed of by this common order. W.P.No.1339/2002 shall be the leading case.

2. The petitioner of writ petition No.1339/02 had earlier filed a petition bearing W.P.No.783/2002, which came up for hearing on 19-4-2002. This Court passed the order that the petitioner shall make a detailed representation to the State Government through the Secretary within 15 days alongwith all the documents and copy of the petition clearly specifying the open area still lying, which shall be decided by the State or such other authority as directed by the State Government as early as possible preferably within two months from the date of receipt of the representation. It was further directed that the petitioner shall be heard and the State may also hear such other persons including the Department. It was also directed that the third party interest may not be created on the open area. In the connected petitions also, this Court passed the order in similar lines.

3. It is submitted that the petitioner preferred the representation within the stipulated period. It is also submitted that some of the petitioners in connected petitions have also preferred the representations within the stipulated period and some of them preferred the representations within the extended period.

4. It is stated that the aforesaid representation was rejected by the State Government vide the impugned order holding that in view of the abolition of Raipur Development Authority the assets and liabilities vest with the Municipal Corporation, Raipur and there is no provision for acquisition of the land by mutual agreement in the Chhattisgarh Municipal Corporation Act.

5. It is contended that during the pendency of this writ petition, Raipur Development Authority has been reconstituted. Learned counsel for the petitioner pointed out and submitted that Raipur Development Authority has

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passed a resolution in its meeting held on 28-12-2004 wherein a decision has been taken to the following effect:

"प्रस्तात कमांक – 2

प्राधिकरण की विभिन्न योजनाओं में शामिल निजी भूमि का आपसी समझौते से अर्जन करने के संबंध में ।

निर्णय

उपरोक्त प्रस्ताव पर विस्तृत चर्चा की गई । चर्चा पश्चात् सर्वसम्मति से यह निर्णय लिया गया कि ऐसे प्रकरणों में जिनमें आपसी समझौते से निजी भूमि का अर्जन किया जाना है, उसमें 60 प्रतिशत क्षेत्र रायपुर विकास प्राधिकरण, रायपुर को निःशुल्क मिले और 40 प्रतिशत क्षेत्र भूमि स्वामी को मिले । इस 40 प्रतिशत भूमि के लिये निर्धारित विकास शुल्क भूमि स्वामी द्वारा देने पर भूमि विकसित कर भूमि स्वामी को दी जायेगी । प्रत्येक प्रकरण परीक्षण कर संचालक मंडल के समक्ष रखा जायेगा । गुणदोषों के आधार पर संचालक मंडल द्वारा निर्णय लिया जायेगा ।"

6. It is contended by learned counsel for the parties that in view of the above resolution, the matter can well be resolved by mutual agreement/ mutual settlement.

7. Having considered the facts and circumstances and the material on record, in the opinion of this Court, ends of justice will be served if a direction is given to the petitioner to submit a suitable representation to Raipur Development Authority alongwith copy of this order within 15 days which shall be considered and decided by Raipur Development Authority as early as possible preferably within a period of two months from the date of receipt of the representation in accordance with the resolution.

8. Till the representation is decided, it is directed that 40% of the land in question shall be preserved and no third party interest shall be created.

9. With the aforesaid observations this petition as well as other connected petitions stand disposed of.

10. Consequently, all the pending application shall also stand disposed of.

Copy of this order be placed in the connected matters.

Parties are entitled for certified copy of this order.

Sd/-

Acting Chief Justice